	Application No.	Applicant(s)
Notice of Allowability	10/635,565	MILNE ET AL.
	Examiner	Art Unit	
	Sheela C. Chawan	2624	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to *8/7/03, Renumbered as 1- 31*.

2. ☒ The allowed claim(s) is/are *6-36*.

3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a) ☐ All   b) ☐ Some*   c) ☐ None of the:

        1. ☐ Certified copies of the priority documents have been received.

        2. ☐ Certified copies of the priority documents have been received in Application No. _____ .

        3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the

           International Bureau (PCT Rule 17.2(a)).

    * Certified copies not received: _____ .

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application. **THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.

5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.

    (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached

        1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____ .

    (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of

        Paper No./Mail Date _____ .

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).

6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☒ Notice of References Cited (PTO-892)

2. ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)

3. ☐ Information Disclosure Statements (PTO/SB/08), Paper No./Mail Date _____

4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material

5. ☐ Notice of Informal Patent Application

6. ☒ Interview Summary (PTO-413), Paper No./Mail Date *10/11/06* .

7. ☒ Examiner's Amendment/Comment

8. ☒ Examiner's Statement of Reasons for Allowance

9. ☐ Other _____ .

Examiner's Amendment

1.   An examiner's amendment to the record appears below. Should the changes

and/or additions be unacceptable to applicant, an amendment may be filed as provided

by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be

submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview

with Mr. Dewitt Timothy, Reg # 35857 on 10/11/06.

The application has been amended as follows:

In the Claims:

Claims 1- 5 are cancel.

DETAILED ACTION

Election/Restriction

2.   Restriction to one of the following inventions is required under 35 U.S.C. 121:

I.   Claims 1- 6, are drawn to combination including of facial identification, classified

in class 382, subclass 118.

II.   Claims 6- 36 are drawn to subcombination including a method of finding up to a

pre-set number of database images each having at least a pre-set confidence

percentage that said database image matches a target facial image, classified in class

902, subclass 3.

The inventions are distinct, each from the other because of the following reasons:

Inventions I and II are related as combination and subcombination. Inventions in

this relationship are distinct if it can be shown that (1) the combination as claimed does

not require the particulars of the subcombination as claimed for patentability, and (2)

that the subcombination has utility by itself or in other combination. See MPEP

806.05(c). In the instant case, the combination as claimed does no require particulars of

the subcombination as claimed because the details in the broadest subcombination

claim 6 requires a method of finding up to a pre-set number of database images each

having at least a pre-set confidence percentage that said database image matches a

target facial image the step of reconstructing a first 2D facial image database into a

second 2D facial image database, said first 2D facial image database having a first

facial image for a person, said second 2D facial image database having a plurality of

parsed facial images for said person, choosing a qualification percentage no greater

than said pre-set confidence percentage, choosing a qualification candidate number,

creating a voting group of people corresponding to parsed images from said second 2D

facial image database by finding up to said qualification can second 2D facial image

database by finding up to said qualification candidate number of highest matches of

said target facial image using a 2D facial recognition algorithm, generating a combined

matching confidence percentage for each person in said voting group, creating a final

match list for said target facial image by selecting up to said pre-set number of highest

matches from said voting group said combined matching confidence percentage for

each person in said voting group which is not recited in the broadest combination claim

1. The subcombination has separate utility such as wherein a method of finding up to a

pre-set number of database images each having at least a pre-set confidence

percentage that said database image matches a target facial image.

3.   Because these inventions are distinct for the reason given above and have

acquired a separate status in the art as shown by their different classification and

divergent subject matter, restriction for examination purposes as indicated is proper.

4.   A telephone call was made to Mr. Dewitt Timothy on 10/11/06 to request an oral

election to the above restriction requirement. Mr. Dewitt has elected group II. Claims 6-

36 and has accepted the restriction with traverse.

5.   Applicant is reminded that upon the cancellation of claims to a non-elected

invention, the inventor ship must be amended in compliance with 37 CFR 1.48(b) if

one or more of the currently named inventors is no longer an inventor of at least one

claim remaining in the application. Any amendment of inventor ship must be

accompanied by a diligently-filed petition under 37 CRF 1.48(b) and by the fee required

under 37 CRF1.17(h).

DETAILED ACTION

6.   Claims 1-5 are canceled by examiner amdt.

Claims 6-36 are pending in the application.

Drawings

7.   Drawings filed on 8/7/03 have been approved by Examiner.

Reason For Allowance

8.   The following is an examiner's statement of reasons for allowance:

Claims 6- 36 are allowed claims and Renumbered as 1-31.

For Independent claim 6, the prior art on record, fails to teach or fairly suggest,

singly or in combination a method of finding up to a pre-set number of database images

each having at least a pre-set confidence percentage that said database image

matches a target facial image, among other things comprising the steps of: creating a

voting group of people corresponding to parsed images from said second 2D facial

image database by finding up to said qualification candidate number of highest matches

of said target facial image using a 2D facial recognition algorithm; generating a

combined matching confidence percentage for each person in said voting group;

creating a final match list for said target facial image by selecting up to said pre-set

number of highest matches from said voting group said combined matching confidence

percentage for each person in said voting group. The closest prior art, Seeberi Pun No:

(US.2002/0114522 A1) discloses system and method for compiling images from a

database and comparing the compiled images with known images. Pub N0: (US

2003/0123713 A1) discloses face recognition system and method. Heavener (US.

6,950,536 B2) discloses high volume mobile identity verification system and method using tiered biometric analysis. Each of the above references either singularly or in combination, fail to anticipate or render the above limitation obvious.

9.   Any comments considered necessary by applicant must be submitted on later than the payment of the issue fee and to avoid processing delays should preferably accompany the issue fee. Such submissions should be clearly labeled, comments on statement of reasons for allowance.

Other prior art cited

10.   The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Wang et al., (US. 5,802,361) discloses method and system for searching graphic images and videos.

Wunderman et al., (US. 6,122,042) discloses devices and methods for optically identifying characteristics of material objects.

Sannoh et al., (US.2003/0071908 A1) discloses image pickup device, automatic focusing method, automatic exposure method, electronic flash control method and computer program.

Okano et al., (US. 6,404,903 B2) discloses system for identifying individuals.

Contact Information

11.   Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Sheela C Chawan whose telephone number is. 571-

272-7446. The examiner can normally be reached on Monday - Thursday 7.30 - 6.00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Matthew Bella reached on 571-272-7778. The fax phone number for the

organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the

Patent Application Information Retrieval (PAIR) system. Status information for

published applications may be obtained from either Private PAIR or Public PAIR.

Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see http://pair-direct.uspto.gov. Should

you have questions on access to the Private PAIR system, contact the Electronic

Business Center (EBC) at 866-217-9197 (toll-free).

Sheela Chawan
Patent Examiner
Group Art Unit 2624
October 12, 2006

SHEELA CHAWAN
PRIMARY EXAMINER